

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of

Mediacom

Gulf Breeze, Florida

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File Number EB-02-TP-136
NAL/Acct. No. 200232700014
FRN # 0007-2823-12

NOTICE OF APPARENT LIABILITY FOR FORFEITURE

Released: June 21, 2002

By the Enforcement Bureau, Tampa Office:

I. INTRODUCTION

1. In this *Notice of Apparent Liability for Forfeiture* (“NAL”), we find that Mediacom willfully and repeatedly violated Section 76.605(a)(12) of the Commission’s Rules (“Rules”),¹ and willfully violated 76.611(a) Rules² by failing to comply with the Commission’s cable signal leakage standards. We find Mediacom apparently liable for a forfeiture in the amount of eight thousand dollars (\$8,000).

II. BACKGROUND

2. On March 13, 2002, a Commission agent from the Tampa, Florida, Field Office (“Tampa Office”) inspected a portion of Mediacom’s cable system serving Gulf Breeze, Florida to identify leaks and determine compliance with the basic signal leakage criteria. The agent identified and measured four leaks on the frequency 121.2625 MHz, ranging in signal strength from 187 microvolts per meter (“μV/m”) to 3,306 μV/m. Based on these measurements, the agent calculated the system’s Cumulative Leakage Index (“CLI”) at a value of 70.6, exceeding the allowable cumulative signal leakage performance criteria of 64.³ (See Attachment A.)

3. On the same date, the FCC agent contacted Mediacom at their office in Gulf Breeze, Florida and verbally ordered Mediacom to cease operation on aeronautical band frequencies until the leaks were repaired and the system complied with the basic signal leakage criteria. The Tampa Office followed the oral order with a written *Order to Cease Operations*, delivered by facsimile on March 13, 2002.⁴

¹ 47 C.F.R. § 76.605(a)(12)

² 47 C.F.R. § 76.611(a)

³ A maximum CLI of 64 is the basic signal leakage performance criteria of Section 76.611(a)(1) of the rules. Leakage that exceeds this level is deemed to pose a serious threat to air safety communications

⁴ See 47 C.F.R. 76.613(c).

4. On March 14, 2002, a Commission agent from the Tampa Office inspected another portion of Mediacom's cable system serving Gulf Breeze, Florida and found 5 additional leaks that exceeded 20 $\mu\text{V/m}$ in violation of Section 76.605(a)(12) of the Rules.

5. On the same day, a Mediacom official verbally informed the Commission agent it had repaired all nine sites of signal leakage identified during in the inspection, and requested to resume normal operation. A letter dated March 15, 2002 followed Mediacom's request. The Tampa office authorized Mediacom to conduct short tests to evaluate the effectiveness of remedial measures and to calculate the CLI.

6. On March 20, 2002, the Tampa Office received a report from Mediacom dated March 19, 2002, describing the actions taken to bring Mediacom's Gulf Breeze, Florida cable system into compliance with the CLI requirements. The report stated that 75.8% of the cable plant was inspected from March 13, 2002 to March 18, 2002. In its report, Mediacom submitted copies of maintenance logs where it acknowledged finding at least 144 leaks with signal strength above 50 $\mu\text{V/m}$. Three of these leaks had a signal strength of 1,000 $\mu\text{V/m}$. Mediacom also reported a CLI value of 69.35 before repairs and 60.19 after conducting the repairs. Finally, Mediacom stated in its report the Gulf Breeze system was in compliance with the leakage requirements and requested permission to resume normal operations. The Tampa Office granted Mediacom's request to resume normal operations.

7. On April 3, 2002, the Tampa Office issued an Official Notice of Violation ("NOV") to Mediacom citing violation of Section 76.605(a)(12). In its April 10, 2002, reply to the NOV, Mediacom stated that its technician repaired all the leakages detected during the field agent's inspections on March 13 and 14, 2002.

III. DISCUSSION

8. The Commission has established cable signal leakage rules to control emissions that could cause interference to aviation frequencies from cable systems. Protecting the aeronautical frequencies⁵ from harmful interference is of paramount importance.⁶ To this end, the Commission established basic signal leakage standards.⁷ The Commission has determined the tolerable levels of unwanted signals on the aeronautical frequencies in two ways. Signal leakage levels that exceed these thresholds are

⁵ The aeronautical bands are 108-137 MHz and 225-400 MHz. These frequencies encompass both radionavigation frequencies, 108-118 MHz and 328.6-335.4 MHz, and communications frequencies, 118-137 MHz and 225-328.6 MHz and 335.4-400 MHz. Deserving particular protection are the international distress and calling frequencies 121.5 MHz, 156.8 MHz, and 243 MHz. *See* 47 C.F.R. §76.616. These frequencies are critical for Search and Rescue Operations including use by Emergency Locator Transmitters (ELT) on planes and Emergency Position Indicating Radio Beacons (EPIRB) on boats. *See generally* 47 C.F.R. Part 80, Subpart V and 47 C.F.R. §§ 87.193-87.199.

⁶ Harmful Interference includes any interference that "endangers the functioning of a radionavigation service or of other safety services." *See* 47 C.F.R. §§ 2.1 & 76.613(a).

⁷ *Memorandum Opinion and Order, Amendment of Part 76 of the Commission's Rules to Add Frequency Channeling Requirements and restrictions and to require Monitoring for Signal Leakage from Cable Television Systems*, Docket No. 21006, 101 F.C.C.2d 117, para. 14 (1985).

considered harmful interference. First, leakage must not exceed 20 $\mu\text{V}/\text{m}$ at a distance of at least three meters from the leak.⁸ Second, the Commission set basic signal leakage performance criteria for the system as a prerequisite for operation on aeronautical frequencies. This is the system's Cumulative Leakage Index ("CLI"). The Commission requires annual measurement of each system's CLI to demonstrate safe levels of signal leakage,⁹ the results of which must be reported to the Commission.¹⁰ The Commission also requires routine monitoring of the system to detect leaks.¹¹ Whenever harmful interference occurs, the cable system operator must eliminate it.¹² Further, should the harmful interference not be eliminated, the Commission will intervene and require suspension of operation of the portion of the system involved or reduction of power¹³ below the levels specified in section 76.610 of the Commission's Rules.¹⁴

9. Commission field agents regularly inspect cable television systems to determine compliance with the Commission's cable signal leakage rules. On March 13 and 14, 2002, an agent from the Tampa Office inspected the cable system operated by Mediacom in Gulf Breeze, Florida. On that date, the agent determined that, at 4 locations, cable signal leakage on 121.2625 MHz exceeded 20 $\mu\text{V}/\text{m}$ at a distance of at least three meters from each leak, in violation of Section 76.605(a)(12) of the Rules. On the same date, the agent also found that the system did not conform to the cumulative signal leakage performance criteria, in violation of Section 76.611(a) of the Rules. On March 14, 2002, the agent determined that, at 5 other locations, cable signal leakage on 121.2625 MHz exceeded 20 $\mu\text{V}/\text{m}$ at a distance of at least three meters from each leak, in violation of Section 76.605(a)(12) of the Rules.

10. Based on the evidence before us, we find that on March 13, and March 14, 2002, Mediacom repeatedly¹⁵ and willfully¹⁶ violated Section 76.605(a)(12) of the Rules by failing to limit signal leakage from its cable television system to the specified amount. We also find that on March 13, 2002, Mediacom willfully violated Section 76.611(a) of the Rules by exceeding the allowed cumulative signal leakage performance criteria on its cable television system.

11. Pursuant to Section 1.80(b)(4) of the Commission's Rules, the base forfeiture amount for the

⁸ 47 C.F.R. §76.605(a)(12).

⁹ 47 C.F.R. §76.611(a).

¹⁰ 47 C.F.R. §76.1804(g).

¹¹ 47 C.F.R. §76.614.

¹² 47 C.F.R. §76.613(b).

¹³ 47 C.F.R. §76.613(c).

¹⁴ 47 C.F.R. §76.610.

¹⁵ Section 312(f)(2) of the Act, 47 U.S.C. § 312(f)(2), which applies equally to Section 503(b) of the Act, provides that "[t]he term 'repeated,' when used with reference to the commission or omission of any act, means the commission or omission of such act more than once or, if such commission or omission is continuous, for more than one day."

¹⁶ Section 312(f)(1) of the Act, 47 U.S.C. § 312(f)(1), which applies equally to Section 503(b) of the Act, provides that "[t]he term 'willful,' when used with reference to the commission or omission of any act, means the conscious and deliberate commission or omission of such act, irrespective of any intent to violate any provision of this Act...." See *Southern California Broadcasting Co.*, 6 FCC Rcd 4387 (1991).

violation(s) cited in this notice is \$8,000.¹⁷ Section 503(b)(2)(D) of the Communications Act of 1934, as amended (“Act”), requires us to take into account “... the nature, circumstances, extent, and gravity of the violation, and with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and other such matters as justice may require.”¹⁸ Considering the entire record and applying the statutory factors listed above, this case warrants a \$8,000 forfeiture.

IV. ORDERING CLAUSES

12. Accordingly, IT IS ORDERED THAT, pursuant to Section 503(b) of the Act¹⁹ and Sections 0.111, 0.311 and 1.80 of the Commission's Rules,²⁰ Mediacom is hereby NOTIFIED of its APPARENT LIABILITY FOR A FORFEITURE in the amount of eight thousand dollars (\$8,000) for willfully and repeatedly violating Section 76.605(a)(12) of the Rules, and willfully violating Section 76.611(a) of the Rules.

13. IT IS FURTHER ORDERED THAT, pursuant to Section 1.80 of the Commission's Rules, within thirty days of the release date of this *NAL*, Mediacom SHALL PAY the full amount of the proposed forfeiture or SHALL FILE a written statement seeking reduction or cancellation of the proposed forfeiture.

14. Payment of the forfeiture may be made by mailing a check or similar instrument, payable to the order of the Federal Communications Commission, to the Forfeiture Collection Section, Finance Branch, Federal Communications Commission, P.O. Box 73482, Chicago, Illinois 60673-7482. The payment must include the FRN and *NAL*/Acct. No. referenced in the letterhead above.

15. The response, if any, must be mailed to Federal Communications Commission, Office of the Secretary, 445 12th Street, SW, Washington, DC 20554, Attn: Enforcement Bureau-Technical & Public Safety Division, and MUST INCLUDE THE *NAL*/Acct. No. and FRN referenced in the letterhead above.

16. The Commission will not consider reducing or canceling a forfeiture in response to a claim of inability to pay unless the petitioner submits: (1) federal tax returns for the most recent three-year period; (2) financial statements prepared according to generally accepted accounting practices (“GAAP”); or (3) some other reliable and objective documentation that accurately reflects the petitioner’s current financial status. Any claim of inability to pay must specifically identify the basis for the claim by reference to the financial documentation submitted.

17. Requests for payment of the full amount of this *NAL* under an installment plan should be sent to: Federal Communications Commission, Chief, Revenue and Receivables Operations Group, 445 12th Street, S.W., Washington, D.C. 20554.²¹

¹⁷ 47 C.F.R. § 1.80(b)(4)

¹⁸ 47 U.S.C. § 503 (b)(2)(D)

¹⁹ 47 U.S.C. § 503(b).

²⁰ 47 C.F.R. §§ 0.111, 0.311, 1.80.

²¹ See 47 C.F.R. § 1.1914.

18. IT IS FURTHER ORDERED THAT a copy of this *NAL* shall be sent by regular mail and Certified Mail Return Receipt Requested to Mediacom at 1101 Gulf Breeze Parkway, Suite 305, Gulf Breeze, Florida 32561.

FEDERAL COMMUNICATIONS COMMISSION

Ralph M. Barlow
District Director, Enforcement Bureau

Mediacom, Gulf Breeze, Florida

NAL Acct. No. 200232700014

ATTACHMENT A

FIELD STRENGTH MEASUREMENTS OF MEDIACOM, GULF BREEZE, FL

MEASUREMENT DATE: MARCH 13 AND 14, 2002

FREQUENCY: 121.2625 MHZ

	Measurement Location	Leakage Field Strength, $\mu\text{V/m}$
1	Buried cable next to residence at #84 Chanteclair Circle	745
2	Pole at corner of Belden Lane and Villa Wood Circle	187
3	Pole in front of "Pensacola Pools" at 3480 Gulf Breeze Parkway	214
4	Pedestal in front of residence at 3531 Southwind Drive, Sea Breeze Villas	3306
5	Pedestal next to residence at 3587 Southwind Drive, Sea Breeze Villas	367
6	Pedestal next to residence at 1423 El Rito Drive	40
7	Buried cable next to mailbox in front of residence at 1423 El Rito Drive	400
8	Pole next to commercial strip building at 3222 Gulf Breeze Parkway	84
9	Pedestal or buried cable in front of residence at #82 Chanteclair Circle	400